



UNITED STATES DEPARTMENT OF JUSTICE
Civil Division | Federal Programs Branch
1100 L Street, NW
Washington, DC 20005

DANIEL D. MAULER
dan.mauler@usdoj.gov
(202) 616-0773

July 18, 2019

Via ECF

The Hon. Michael J. McShane
United States District Court
Wayne L. Morse United States Courthouse
Room 5700
405 East Eighth Avenue
Eugene, OR 97401-2706

**Re: Additional Ninth Circuit Authority,
State of Oregon, et al. v. Donald J. Trump, et al., 6:18-cv-01959-MC (D. Or.)**

Dear Judge McShane:

I write to advise the Court of recent authority from the U.S. Court of Appeals for the Ninth Circuit that is relevant to the above-referenced case. On July 12, 2019, the Ninth Circuit issued the attached opinion in *City of Los Angeles v. Barr*, Case No. 18-55599, which involves conditions in a federal grant program that are similar to the Access and Notice conditions at issue in the pending litigation. *See, e.g.*, Slip Opinion, at 25.

Further, the *Los Angeles* opinion addresses a challenge to these two conditions brought under the Spending Clause (*see, e.g., id.* at 19-20, 23-27, 31-32) that is similar to the Spending Clause challenge brought by the current plaintiffs. *See, e.g.*, Plaintiffs' Combined Motion for Summary Judgment and Response to Defendants' Motion to Dismiss (ECF No. 21), at 38-39.

Briefing in the pending case closed on May 28, 2019, and as such, the parties did not have the benefit of the *Los Angeles* opinion when composing their briefs. The Defendants respectfully advise that they intend to rely upon this new authority at oral argument, currently scheduled for July 26, 2019.

Sincerely,

A handwritten signature in black ink that reads "Daniel Mauler". The signature is fluid and cursive.

Daniel D. Mauler
Counsel for Defendants

cc: Counsel of Record